

(4) Where the Commissioner of the Korean Intellectual Property Office has decided under paragraph (3) that the refusal, declaration or finding was not properly made under the Patent Cooperation Treaty and its Regulations, the relevant international application is deemed to be a utility model application filed on the date that would have been recognized as the international filing date if the refusal, declaration or finding had not been made for the international application.

(5) Articles 57(2), 58, 59(4) to (8), 60(1) and (2), 62, 65, and 67 to 70 apply *mutatis mutandis* to an international application considered to be a utility model application filed on the date that would have been recognized as the international filing date under paragraph (4).

(6) With regard to the amendment of an international application considered to be a utility model application under paragraph (4), "the filing date of the utility model application" in Article 13(1) of this Act reads "date of decision that the refusal, declaration or finding was not properly made under Article 71(4)".

Article 72 *Mutatis Mutandis* Application of the Patent Act

Articles 192 to 198*bis*, 206, 210 and 211 of the Patent Act apply *mutatis mutandis* to international utility model applications. In this situation, "request an examination of the application" in Article 210 of the Patent Act reads "a request for domestic treatment".

CHAPTER X

SUPPLEMENTARY PROVISIONS

Article 73 Utility Model Gazette

(1) The Korean Intellectual Property Office shall publish the Utility Model Gazette.

(2) The Utility Model Gazette may be published in electronic media as prescribed by ordinance of the Ministry of Commerce, Industry and Energy.

(3) When publishing the Utility Model Gazette in electronic media, the Commissioner of the Korean Intellectual Property Office shall publicize on a communication network matters regarding the Utility Model Gazette's publication, main contents and service.

Article 74 Special Provisions for a Utility Model Registration or Right with Two or More Claims

Under Article 74(4) of the Patent Act as it applies *mutatis mutandis* under Article 48 of this Act, Articles 21(2), 25(4), 31(1)(ii), 32(1)(i) (only in cases of extinguishment), 40(1)(i), 40(1)(iii) and (v) of this Act, Articles 101(1)(i) and 119(1) of the Patent Act as applied *mutatis mutandis* under Article 42 of this Act, Article 49(2) and (3) of this Act, Articles 51(5), 139(1), 181, 182, 104(1)(ii), (iv) and (v) of the Patent Act as applied *mutatis mutandis* under Article 56 of this Act, where a utility model registration or utility model right has two or more claims, the utility model registration is deemed to have been registered, or a utility model right is deemed to have been established, for each claim.

Article 75 Indication of Utility Model Registration

The owner of a utility model right or an exclusive or nonexclusive licensee may identify a utility model registration on the registered utility model product or on the product's container or packaging.

Article 76 Prohibition of False Indication

A person may not perform any of the following acts:

- (i) marking to indicate that a utility model registration has been granted or a utility model application has been filed, or any sign likely to cause confusion in a similar manner, on an article or on an article's

container or packaging, for which a utility model has not been registered or for which a utility model application is not pending;

- (ii) assigning, leasing or displaying an article that has been marked with an indication referred to in subparagraph (i); or
- (iii) for the purpose of manufacturing, using, assigning or leasing an article referred to in subparagraph (i), marking with an indication upon advertisements, signboards or tags that a utility model has been registered for the article or that a utility model application has been filed, or marking with any sign likely to cause such confusion.

Article 77 *Mutatis Mutandis* Application of the Patent Act

Articles 216, 217, 217*bis*, 218 to 220, 222 and 224*bis* of the Patent Act apply *mutatis mutandis* to a utility model. In this case "examination" in Articles 217 and 217*bis* of the Patent Act reads "technical evaluation of a utility model".

CHAPTER XI

PENAL PROVISIONS

Article 78 Offense of Infringement

(1) A person who infringes a utility model right or exclusive license is liable to imprisonment with labor not exceeding seven years or to a fine not exceeding 100 million won.

(2) Prosecution for offenses under paragraph (1) are initiated upon the filing of a complaint by an injured party.